



# MISSOURI DEPARTMENT OF MENTAL HEALTH

DORN SCHUFFMAN, DEPARTMENT DIRECTOR



DEPARTMENT  
OPERATING  
REGULATION  
NUMBER

DOR  
4.496

CHAPTER Program Implementation and Records	SUBCHAPTER Release and Discharge Procedures	EFFECTIVE DATE 7/1/02	NUMBER OF PAGES 2	PAGE NUMBER 1 of 2
SUBJECT Determination of Fitness to Proceed to Criminal Trial		AUTHORITY Sections 552.020 and 630.050, RSMo		HISTORY See Below
PERSON RESPONSIBLE Director, CPS			SUNSET DATE 7/1/2005	

**PURPOSE:** Prescribes policies and procedures for reviewing the status of clients committed under Section 552.020, RSMo.

**APPLICATION:** Applies to all facilities of the department confining clients pending determination of their fitness to proceed.

(1) If an individual is committed as incompetent to stand trial, the treatment or habilitation staff of the facility or a certified forensic examiner as set out in DOR 6.478 should evaluate the individual's competency no later than sixty (60) days from the date of admission.

(A) The facility shall complete the "Review of Competency" form (DMH Form 8110) with one copy placed in the medical record, one sent to the director of forensic services.

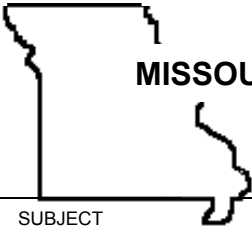
(B) If the individual is determined to be restored to competency, facility staff shall prepare a "Motion to Proceed" (DMH Form 8112) and send it with a copy of the competency assessment report to the DMH Assistant General Counsel, who, as designee of the department director, shall review it, sign it in proper form and file it with the proper court.

(2) If the individual is determined at the sixty (60) day staffing to remain incompetent to stand trial, the facility shall review competency no later than 180 days from the date of admission.

(A) The treatment or habilitation staff or a certified forensic examiner shall complete the "Review of Competency" form, placing one copy in the medical record and sending another to the director of forensic services.

(B) If the individual is considered to be competent to stand trial, the treatment or habilitation staff shall prepare a "Motion to Proceed" along with a current competency assessment report and send it to the DMH Assistant General Counsel for review and filing with the proper court as the designee of the department director .

(C) If the individual remains incompetent to stand trial, and it is the opinion of the staff that restoration to competency is not likely in the reasonably foreseeable future, the treating staff or the mental health coordinator serving the facility, or both, shall assess the individual's suitability for civil detention or guardianship. The staff shall note its opinion on these issues in part 5 of 6 of the "Review of Competency" form. In addition, a copy of the latest competency assessment report should be sent to the director of forensic services and the DMH Assistant General Counsel with the "Review of Competency" form.



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(D) If the staff has determined that the individual is not likely to be restored to competency, the director of forensic services should work with the DMH Assistant General Counsel to request that papers be filed asking that the charges be dismissed. If the charges are dismissed, the treating facility may continue to give service to the individual only if the individual is admitted after signing voluntary admission papers, is detained pursuant to Chapter 632, or is admitted by a guardian pursuant to Chapter 475.

(E) If guardianship is indicated, the Forensic Coordinator shall assure that the team initiates a guardianship packet, including but not limited to a current medical/psychiatric assessment and the appropriate clinician interrogatories. This information shall be sent to the DMH Assistant General Counsel for assistance.

(3) If the individual is incompetent at the 180-day review, but staff believes that he or she is likely to be restored to competency, the staff shall conduct another review no later than twelve (12) months from the date of admission.

(A) If the individual is determined to be restored to competency, staff shall prepare a "Motion to Proceed" along with a competency assessment report and send it to the DMH Assistant General Counsel for filing with the appropriate court.

(B) If the individual remains incompetent to stand trial, the staff shall follow the procedure outlined in subsections (C), (D) and (E) of section (2) of this DOR.

(4) The guidelines for reviewing the client's competency establish the maximum length of time that may elapse before review must occur. Review may occur at any time prior to the dates established by this regulation.

(5) Quality Assurance. The head of the mental health facility where clients committed under Section 552.020 reside shall, through the forensic coordinator or other designee, ensure that all appropriate staff are trained regarding the policies and procedures contained in this DOR. The head of the mental health facility, forensic coordinator or designee, shall keep appropriate data regarding the application of the policies and procedures contained in this DOR.

(6) Failure to comply or assure compliance with the provision of the DOR may be cause for disciplinary action, including dismissal.

*HISTORY. Original DOR effective August 1, 1981. Amendment effective January 15, 1988. Amendment effective August 1, 1998. Amendment effective May 1, 1999. Amendment effective July 1, 2002.*